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**UTAH LABOR COMMISSION**

**ROSE M. JONES,**

**Petitioner,**

**vs.**

**SALT LAKE CITY POLICE DEPT,**

**Respondent.**

**ORDER SETTING ASIDE  
ALJ'S DECISION**

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**ORDER OF REMAND**

**Case No. 04-0623**

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Rose M. Jones asks the Utah Labor Commission to review Administrative Law Judge Sessions' denial of Ms. Jones' claim for permanent total disability compensation under the Utah Workers' Compensation Act, Title 34A, Chapter 2, Utah Code Annotated.

The Labor Commission exercises jurisdiction over this motion for review pursuant to Utah Code Annotated § 63G-4-301 and § 34A-2-801(3).

**BACKGROUND AND ISSUE PRESENTED**

Ms. Jones alleges she is permanently and totally disabled as a result of back injuries and post-traumatic stress disorder caused by her work as a police officer for Salt Lake City Police Department ("SLPD"). Judge Sessions commenced an evidentiary hearing on Ms. Jones' claim on August 26, 2005. An additional hearing was held on September 30, 2005. Judge Sessions then issued his decision denying Ms. Jones' claim on the grounds that neither her back injuries nor her stress disorder prevented her from working. Ms. Jones now requests Commission review of Judge Sessions' decision on the grounds that the medical aspects of her claim should have been referred to an impartial medical panel. Ms. Jones also argues that Judge Sessions should have admitted a letter from one her psychologists into evidence.

**DISCUSSION**

An injured worker must satisfy the criteria of § 34A-2-413(1) of the Utah Workers' Compensation Act in order to qualify for permanent total disability compensation. Among other things, §413(1) requires consideration of the cause, nature and extent of the impairment on which the claim for compensation is based. Another provision of the Act--§ 34A-2-601-- permits the Commission to appoint a panel of impartial medical experts to evaluate the medical aspects of disputed claims. Rule R602-2-2 identifies the circumstances where appointment of a medical panel is appropriate. As material to Ms. Jones' claim, Rule R602-2-2 provides as follows:

A panel will be utilized by the Administrative Law Judge where one or more significant medical issues may be involved. Generally a significant medical issue must be shown by conflicting medical reports. Significant medical issues are

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involved when there are: . . . [c]onflicting medical opinions related to a claim of permanent total disability . . . .

The parties have submitted conflicting opinions related to Ms. Jones' claim of permanent total disability. Dr. Rogers, Ms. Jones' treating psychologist, states that Ms. Jones' post-traumatic stress disorder was caused by her employment at SLPD. Dr. Rogers also states that Ms. Jones is currently unemployable and is unlikely to return to police work. Dr. Knippa, SLPD's consulting psychologist, attributes Ms. Jones' inability to work to personal circumstances unrelated to her employment. Because the foregoing conflict of medical opinion must be resolved in order to determine whether Ms. Jones is entitled to permanent total disability compensation, the Commission will remand this matter to the Adjudication Division for referral to a medical panel pursuant to § 34A-2-601 and Rule R602-2-2.A.4.

The Commission notes Ms. Jones' additional argument that that Judge Sessions erred by refusing to accept into evidence Dr. Johnston's letter of August 25, 2005. Judge Sessions did not explicitly rule on the admissibility of the letter, but it appears that he excluded the letter because it was not submitted prior to the initial evidentiary hearing on August 26, 2005. On remand, the Administrative Law Judge is authorized to determine whether the letter should now be admitted.

Finally, Ms. Jones asserts that a difference of medical opinion also exists regarding the extent of impairment she suffered from her work-related back injury. Ms. Jones argues that this question should also be referred to a medical panel. However, Ms. Jones has conceded that this back injury is not the cause of her alleged permanent total disability. The Commission therefore concludes that Ms. Jones' back injury need not be evaluated by the medical panel.

**ORDER**

The Commission hereby sets aside Judge Sessions' decision in this matter and remands Ms. Jones' claim for permanent total disability compensation to the Adjudication Division for further proceedings consistent with this decision and issuance of a new decision resolving Ms. Jones' claim. It is so ordered.

Dated this 16<sup>th</sup> day of October, 2008.

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Sherrie Hayashi  
Utah Labor Commissioner

